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16 Attorneys for Plaintiff JL Beverage Company, LLC

17 **UNITED STATES DISTRICT COURT**

18 **DISTRICT OF NEVADA**

19 JL BEVERAGE COMPANY, LLC, a Nevada  
20 limited liability company,

21 Plaintiff,

22 v.

23 BEAM, INC., a Delaware corporation, et al.

24 Defendants.

Case No.: 2:11-cv-00417-MMD-CWH

**RYAN GILE'S MOTION TO  
WITHDRAW AS COUNSEL OF  
RECORD FOR PLAINTIFF**

25 Pursuant to District of Nevada Local Rule LR IA 11-6(b) and Rule 1.16 of the Nevada  
26 Rules of Professional Conduct, I, Ryan Gile, hereby move the Court for entry of an order granting  
27 leave for me to withdraw from representing Plaintiff JL Beverage Company, LLC in this  
28 litigation.

**STATEMENT OF FACTS**

On March 29, 2018, the undersigned informed Weide & Miller, Ltd. of his resignation  
from further employment with the firm. Plaintiff's lead counsel, Colin C. Holley, Esq. of  
HamptonHolley LLP, will remain as lead counsel in the case and F. Christopher Austin, with the

1 law firm Weide & Miller, Ltd., will remain local counsel of record for Plaintiff in this proceeding.

## 2 **LEGAL STANDARDS**

3 District of Nevada Local Rule LR IA 11-6 governs attorney appearances, substitutions,  
4 and withdrawals. It states the following:  
5

### 6 **LR IA 11-6. APPEARANCES, SUBSTITUTIONS, AND WITHDRAWALS**

- 7 (a) A party who has appeared by attorney cannot while so represented appear or act in  
8 the case. This means that once an attorney makes an appearance on behalf of a  
9 party, that party may not personally file a document with the court; all filings must  
10 thereafter be made by the attorney. An attorney who has appeared for a party must  
11 be recognized by the court and all the parties as having control of the client's case,  
12 however, the court may hear a party in open court even though the party is  
13 represented by an attorney.
- 14 (b) No attorney may withdraw after appearing in a case except by leave of the court  
15 after notice has been served on the affected client and opposing counsel.
- 16 (c) A stipulation to substitute attorneys must be signed by the attorneys and the  
17 represented client and be approved by the court. Except where accompanied by a  
18 request for relief under subsection (e) of this rule, the attorney's signature on a  
19 stipulation to substitute the attorney into a case constitutes an express acceptance  
20 of all dates then set for pretrial proceedings, trial, or hearings, by the discovery  
21 plan or any court order.
- 22 (d) Discharge, withdrawal, or substitution of an attorney will not alone be reason for  
23 delay of pretrial proceedings, discovery, the trial, or any hearing in the case.
- 24 (e) Except for good cause shown, no withdrawal or substitution will be approved if it  
25 will result in delay of discovery, the trial, or any hearing in the case. Where delay  
26 would result, the papers seeking leave of the court for the withdrawal or  
27 substitution must request specific relief from the scheduled discovery, trial, or  
28 hearing. If a trial setting has been made, an additional copy of the moving papers  
must be provided to the clerk for immediate delivery to the assigned district judge,  
bankruptcy judge, or magistrate judge.

29 In addition, Rule 1.16 of the Nevada Rules of Professional Conduct governs the  
30 termination of representation. It states the following:

- 31 (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where  
32 representation has commenced, shall withdraw from the representation of a client  
33 if:  
34  
35 (1) The representation will result in violation of the Rules of Professional

- 1 Conduct or other law;
- 2 (2) The lawyer's physical or mental condition materially impairs the lawyer's
- 3 ability to represent the client; or
- 4 (3) The lawyer is discharged.
- 5 (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a
- 6 client if:
- 7 (1) Withdrawal can be accomplished without material adverse effect on the
- 8 interests of the client;
- 9 (2) The client persists in a course of action involving the lawyer's services that
- 10 the lawyer reasonably believes is criminal or fraudulent;
- 11 (3) The client has used the lawyer's services to perpetrate a crime or fraud;
- 12 (4) A client insists upon taking action that the lawyer considers repugnant or
- 13 with which the lawyer has fundamental disagreement;
- 14 (5) The client fails substantially to fulfill an obligation to the lawyer regarding
- 15 the lawyer's services and has been given reasonable warning that the
- 16 lawyer will withdraw unless the obligation is fulfilled;
- 17 (6) The representation will result in an unreasonable financial burden on the
- 18 lawyer or has been rendered unreasonably difficult by the client; or
- 19 (7) Other good cause for withdrawal exists.
- 20 (c) A lawyer must comply with applicable law requiring notice to or permission of a
- 21 tribunal when terminating representation. When ordered to do so by a tribunal, a
- 22 lawyer shall continue representation notwithstanding good cause for terminating
- 23 the representation.
- 24 (d) Upon termination of representation, a lawyer shall take steps to the extent
- 25 reasonably practicable to protect a client's interests, such as giving reasonable
- 26 notice to the client, allowing time for employment of other counsel, surrendering
- 27 papers and property to which the client is entitled and refunding any advance
- 28 payment of fee or expense that has not been earned or incurred. The lawyer may
- retain papers relating to the client to the extent permitted by other law.

### **ARGUMENT**

The Court should grant leave to withdraw because the legal standards for withdrawal are easily satisfied in this instance. First, with respect to LR IA 11-6(b), I have informed JL Beverage

1 Company, LLC (“JL Beverage”) of my resignation from Weide & Miller, Ltd. and my intent to  
2 withdraw as attorney of record in this matter. In addition, this motion has been served on all  
3 parties of record. Second, with respect to LR 11-6(e), no delay of discovery, trial, or any hearing  
4 in the case will result since JL Beverage’s lead counsel, Colin C. Holley, has not changed and will  
5 continue to serve as lead counsel in the case and F. Christopher Austin will continue on as local  
6 counsel for JL Beverage in this matter. Third, with respect to Nevada Rule of Professional  
7 Conduct 1.16(b)(1), adequate grounds for withdrawal exist because withdrawal can be  
8 accomplished without material adverse effect since Mr. Holley, as lead counsel, and Mr. Austin  
9 and Weide & Miller, Ltd., as local counsel, will continue to represent JL Beverage in this case.  
10 Fourth, Rule 1.16(c) is satisfied because, through this motion, I am complying with the Court’s  
11 rules and procedures for withdrawal. Fifth, Rule 1.16(d) is satisfied because, again, JL Beverage’s  
12 principal lead counsel, Mr. Holley, and local counsel, Mr. Austin, will continue to represent JL  
13 Beverage in this case.  
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1 **CONCLUSION**

2 For the foregoing reasons, I respectfully request that the Court enter an order granting me,  
3 Ryan Gile, leave to withdraw as counsel of record for Plaintiff JL Beverage Company, LLC in  
4 this matter.

5 DATED this 11<sup>th</sup> day of April, 2018.

6 Respectfully Submitted,

7 **WEIDE & MILLER, LTD.**

8  
9 /s/ Ryan Gile

10 F. Christopher Austin, Esq.  
11 Ryan Gile, Esq.  
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13 Las Vegas, NV 89144

14 HAMPTONHOLLEY LLP  
15 Colin C. Holley, Esq. (pro hac vice)  
16 2101 East Coast Hwy., Suite 100  
17 Corona del Mar, CA 92625

18 Attorneys for Plaintiff JL Beverage Company, LLC

19 **IT IS SO ORDERED:**

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21 \_\_\_\_\_  
22 UNITED STATES MAGISTRATE JUDGE

23 DATED: April 12, 2018  
24 \_\_\_\_\_  
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1 **CERTIFICATE OF MAILING**

2 I HEREBY CERTIFY that I am an employee of Weide & Miller, Ltd. and that on **April**  
3 **11, 2018**, I served a full, true and correct copy of the foregoing **RYAN GILE'S MOTION TO**  
4 **WITHDRAW AS COUNSEL FOR PLAINTIFF**, via the United States District Court's  
5 CM/ECF filing system upon the following:

6  
7 Michael J. McCue (NV Bar 6055)  
8 **LEWIS ROCA ROTHGERBER LLP**  
9 3993 Howard Hughes Parkway; Suite 600  
10 Las Vegas, Nevada 89169-5996

11 Edward T. Colbert (Admitted Pro Hac Vice)  
12 William M. Merone (Admitted Pro Hac Vice)  
13 Erik C. Kane (Admitted Pro Hac Vice)  
14 **HUNTON ANDREWS KURTH LLP**  
15 1350 I Street, N.W.  
16 Washington, D.C. 20005

17 Jonathan W. Thomas (Admitted Pro Hac Vice)  
18 **HUNTON ANDREWS KURTH LLP**  
19 One Broadway  
20 New York, NY 10004

21  
22 /s/Brianna Show  
23 An employee of Weide & Miller, Ltd.  
24  
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26  
27  
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